

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v**

**CHEVRON PHILLIPS CHEMICAL  
COMPANY LP,**

**Defendant.**

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**CIVIL NO.**

**COMPLAINT**

Plaintiff, the United States of America, by the authority of the Attorney General, through its undersigned attorneys, and at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), hereby files this Complaint and alleges the following:

**PRELIMINARY STATEMENT**

1. This is a civil action brought pursuant to Section 113(b)(2) of the Clean Air Act ("the Act"), 42 U.S.C. § 7413(b)(2), against defendant, Chevron Phillips Chemical Company, LP ("Chevron Phillips LP"), for its violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r); 40 CFR Part 68, Chemical Accident Prevention Provisions; and 40 CFR Part 60, New Source Performance Standards.

**JURISDICTION, VENUE AND AUTHORITY**

2. This Court has jurisdiction over the subject matter of this action pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1331, 1345 and 1355.

3. Venue is proper in this judicial district pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) and (c) and 1395. Defendant does business in, and these claims arose within, this judicial district.

4. Authority to bring this action is vested in the United States Department of Justice pursuant to Section 305 of the Act, 42 U.S.C. § 7605.

5. Notice of commencement of this action has been given to the State of Texas pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b).

### **PARTIES**

6. Plaintiff is the United States of America, acting at the request of the United States Environmental Protection Agency ("EPA"), an agency of the United States.

7. Defendant Chevron Phillips Chemical Company LP ("Chevron Phillips LP") is a limited partnership organized under the laws of the State of Delaware and doing business in this judicial district.

8. In May 2000, Chevron Phillips Chemical Company LLC was formed as a joint venture between Chevron Corporation and Phillips Petroleum Company to own and operate their chemical and plastic businesses worldwide through various subsidiaries and affiliates including Chevron Phillips LP, which owns most of the domestic assets and plants, including the Pasadena Plastics Complex, formerly known as the Houston Chemical Complex.

9. The defendant is a "person" as defined by Section 302(e) of the Act, 42 U.S.C. § 7602(e), within the meaning of Section 113(b) of the Act, 42 U.S.C. § 7413(b).

10. At all relevant times, Chevron Phillips LP, or its predecessors in interest, Phillips Petroleum Company and Phillips Chemical Company, owned and operated the Pasadena

Plastics Complex, a petrochemical and plastic plant situated between the Houston Ship Channel and Texas State Highway 225, located at 1400 Jefferson Road, Pasadena, Harris County, Texas.

## **STATUTORY AND REGULATORY FRAMEWORK**

### **A. Prevention of Accidental Releases**

11. Section 112(r)(1) of the Act, 42 U.S.C. § 7412(r)(1), provides in pertinent part:

It shall be the objective of the regulations and programs authorized under this subsection to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to paragraph (3) or any other extremely hazardous substance. The owners and operators of stationary sources producing, processing, handling or storing such substances have a general duty in the same manner and to the same extent as Section 654 of Title 29 [29 U.S.C. § 654]] to identify hazards which may result from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

12. Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7), provides in pertinent part:

(A) In order to prevent accidental releases of regulated substances, the Administrator is authorized to promulgate release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements . . . .

(B) (ii) The regulations under this subparagraph shall require the owner or operator of stationary sources at which a regulated substance is present in more than a threshold quantity to prepare and implement a risk management plan to detect and prevent or minimize accidental releases of such substances from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment. Such plan shall provide for compliance with the requirements of this subsection . . . .

13. In accordance with Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7), in 1994, the Administrator of EPA promulgated regulations regarding the requirements for owners or operators of stationary sources concerning the prevention of accidental chemical releases. The

list of substances, threshold quantities, and accident prevention regulations do not limit in any way the general duty provisions under Section 112(r)(1) or 40 C.F.R. § 68.1.

14. Pursuant to 40 C.F.R. § 68.10, the owner or operator of a stationary source that has more than a threshold quantity of an extremely hazardous substance in a process must comply with the regulations concerning the prevention of accidental releases set forth at 40 C.F.R. Part 68. The owner or operator must complete a single registration form that lists each such substance, and include the registration form in its Risk Management Plan (“RMP”).

15. Pursuant to 40 C.F.R. § 68.15, the owner or operator of a stationary source with processes subject to the Program 3 Prevention Program must develop and implement a management system to oversee the implementation of the required risk management program.

16. Pursuant to 40 C.F.R. § 68.65, the owner or operator of a stationary source must complete a compilation of written process safety information before conducting any process hazard analysis to enable the management and employees involved in operating the process to identify and understand the hazards posed by those processes involving extremely hazardous substances.

17. Pursuant to 40 C.F.R. § 68.67, the owner or operator of a stationary source must perform an initial process hazard analysis that identifies, evaluates, and controls the hazards involved.

18. Pursuant to 40 C.F.R. § 68.69, the owner or operator of a stationary source must develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process.

19. Pursuant to 40 C.F.R. § 68.71, the owner or operator of a stationary source must train each employee involved in operating a process in an overview of the process and in the operating procedures emphasizing the specific safety and health hazards applicable to the employee's job tasks.

20. Pursuant to 40 C.F.R. § 68.73, the owner or operator of a stationary source must correct deficiencies in equipment that are outside required acceptable limits before further use or in a safe and timely manner.

21. Pursuant to 40 C.F.R. § 68.75, the owner or operator of a stationary source must establish and implement written procedures to manage changes to process chemical, technology, equipment, and procedures; and changes to stationary sources that affect a covered process.

22. Pursuant to 40 C.F.R. § 68.75, the owner or operator of a stationary source must consult with employees and their representatives on the conduct and development of process hazards analyses and other elements of process safety management.

23. Pursuant to 40 C.F.R. § 68.95, the owner or operator of a stationary source must develop and implement an emergency response program for the purpose of protecting public health and the environment.

**B. New Source Performance Standards**

24. Pursuant to 40 C.F.R. § 60.482-6, the owner or operator of an affected facility in the synthetic organic chemicals manufacturing industry must correctly seal all valves and other components of equipment to prevent leaks of volatile organic compounds ("VOCs").

25. Pursuant to 40 C.F.R. §§ 60.482-1 to 60.482-10, and 60.486(e), the owner or operator of an affected facility in the synthetic organic chemicals manufacturing industry must identify, tag, and record in a log that is kept in a readily accessible location all components of equipment in VOC service.

26. Pursuant to 40 C.F.R. §§ 60.7(f), 482-2(a)(2), the owner or operator of an affected facility in the synthetic organic chemicals manufacturing industry must maintain the required records of its weekly visual inspection of each pump in light liquid service to prevent liquids dripping from the pump seal.

27. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Administrator of EPA must, as appropriate, in the case of a person that is the owner or operator of an affected source, a major emitting facility, or a major stationary source commence a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than \$25,000 per day for each violation, or both, occurring on or before January 30, 1997; not more than \$27,500 per day for each violation occurring after January 30, 1997; and not more than \$32,500 per day for each violation occurring after March 25, 2004, as required by the Debt Collection Act.

### **GENERAL ALLEGATIONS**

28. At all relevant times, the defendant was an "owner or operator" or a successor to an "owner or operator" of the Pasadena Plastics Complex, a "major stationary source" and an "affected facility" under Sections 112(a) and 112(r)(2)(C) of the Act, 42 U.S.C. §§ 7412(a)(9), 7412(r)(2)(C); 40 C.F.R. §§ 60.1(a), 60.2, 60.480(a)(1), and 60.560(b)(1)(i).

29. At all relevant times, the Pasadena Plastics Complex has processed, handled

and/or stored 1,3 butadiene, cyclohexane, ethylene, isobutane, pentane, propane, 2-methyl propene, propylene and styrene to produce plastic resin, which are listed or other extremely hazardous substances under Sections 112(r)(3) and 112(r)(7) of the Act, 42 U.S.C. §§ 7412(r)(3) and 7412(r)(7), and 40 C.F.R. § 68.130. Plastic resin is used to make clear plastic drinking cups, medical and retail packaging, toys, shower doors, and many hospital wares.

30. The defendant has continuously failed to develop and implement a management system to oversee the implementation of the required Risk Management Program at the Pasadena Plastics Complex.

31. The defendant has continuously failed to complete a compilation of written process safety information before conducting any process hazard analysis to enable the management and employees involved in operating the process to identify and understand the hazards posed by those processes involving extremely hazardous substances at the Pasadena Plastics Complex.

32. The defendant has continuously failed to perform an initial process hazard analysis that identified, evaluated, and controlled the hazards involved at the Pasadena Plastics Complex.

33. The defendant has continuously failed to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process at the Pasadena Plastics Complex.

34. The defendant has continuously failed to train each employee involved in operating a process in an overview of the process and in the operating procedures emphasizing the specific safety and health hazards applicable to the employee's job tasks at the Pasadena

Plastics Complex.

35. The defendant has continuously failed to correct deficiencies in equipment that are outside required acceptable limits before further use or in a safe and timely manner at the Pasadena Plastics Complex.

36. The defendant has continuously failed to establish and implement written procedures to manage changes to process chemical, technology, equipment, and procedures; and changes to stationary sources that affect a covered process at the Pasadena Plastics Complex.

37. The defendant has continuously failed to consult with employees and their representatives on the conduct and development of process hazards analyses and other elements of process safety management at the Pasadena Plastics Complex.

38. The defendant has continuously failed to develop and implement an emergency response program for the purpose of protecting public health and the environment at the Pasadena Plastics Complex.

39. On June 23, 1999, the spare reactor in the K-Resin Unit at the Pasadena Plastics Complex exploded due to over-pressurization resulting from an uncontrolled runaway polymerization reaction that occurred within the vessel. The explosion released extremely hazardous substances into the air, including 1,3 butadiene, cyclohexane, and styrene. Those substances ignited, which caused a secondary explosion and fire that killed two men and injured more than 30 other people.

40. On the day of the accident, excessive 1,3 butadiene was flowed into the reactor prior to the mini-batch procedure. The styrene and catalyst were then added. This method of mixing materials was contrary to standard operating procedures and was the cause of the



explosion.

41. On March 27, 2000, another explosion and fire occurred in the K-Resin Unit at the Pasadena Plastics Complex, killing one and injuring 69 people. A pressure build-up caused an out-of-service butadiene storage tank burst in the K-Resin purification area at the Complex. The flammable contents of the tank ignited and caused other tanks to explode as well, resulting in a fire at the K-Resin Plant, and the release of extremely hazardous chemicals including 1,3 butadiene, cyclohexane, and styrene.

42. An investigation into the cause of the accident found that the liquid butadiene present in the dry storage tank was creating heat and pressure within the tank, and the pressure safety valve was not operable. As a result, the tank became over-pressurized and exploded.

43. The releases of 1,3 butadiene, cyclohexane, styrene, and other extremely hazardous substances from the Pasadena Plastics Complex in June 1999 and March 2000 constituted "accidental release[s]" within the meaning of Section 112(r)(2)(A) of the Act, 42 U.S.C. § 7412 (r)(2)(A).

44. The June 1999 and March 2000 explosions and fires as well as other accidental releases of extremely hazardous substances at the Pasadena Plastics Complex have caused or threatened to cause harm to public and environmental receptors, including schools, residences, motorists, and commercial and other industrial facilities located outside the Pasadena Plastics Complex.

45. The accidental release of extremely hazardous substances resulting from the June 1999 and March 2000 explosions and fires at the Pasadena Plastics Complex have caused or threaten to cause harm to public and environmental receptors, including schools, residences,

motorists, and commercial and other industrial facilities located outside the Pasadena Plastics Complex.

**FIRST CLAIM FOR RELIEF**  
**(General Duty Clause-Failure to Identify Hazards)**  
**(40 U.S.C. § 7412(r)(1))**

46. Paragraphs 1 through 45 are incorporated herein by reference.

47. The defendant has continuously violated Section 112(r)(1) of the Act, 42 U.S.C. § 7412(r)(1), by failing to identify hazards which may result from the accidental release of extremely hazardous substances, including 1,3 butadiene, cyclohexane, ethylene, isobutane, pentane, propane, propylene, and styrene, using appropriate hazard assessment techniques at the Pasadena Plastics Complex.

48. As a result of the defendant's continuous failure to identify such hazards, accidental releases of extremely hazardous substances have occurred at the Pasadena Plastics Complex. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**SECOND CLAIM FOR RELIEF**  
**(General Duty Clause-Failure to Design and Maintain Safe Facility)**  
**(40 U.S.C. § 7412(r)(1))**

49. Paragraphs 1 through 45 are incorporated herein by reference.

50. The defendant has continuously violated Section 112(r)(1) of the Act, 42 U.S.C. § 7412(r)(1), by failing to design and maintain a safe facility and taking such steps as have been necessary to prevent accidental releases of extremely hazardous substances at the

Pasadena Plastics Complex.

51. As a result of the defendant's continuous failure to design and maintain a safe facility, accidental releases of extremely hazardous substances have occurred at the Pasadena Plastics Complex. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**THIRD CLAIM FOR RELIEF**  
**(General Duty Clause-Failure to Minimize Consequences)**  
**(40 U.S.C. § 7412(r)(1))**

52. Paragraphs 1 through 45 are incorporated herein by reference.

53. The defendant has continuously violated Section 112(r)(1) of the Act, 42 U.S.C. § 7412(r)(1), by failing to minimize the consequences of accidental releases of extremely hazardous substances at the Pasadena Plastics Complex.

54. As a result of the defendant's continuous failure to minimize the consequences of accidental releases of extremely hazardous substances, accidental releases of extremely hazardous substances have occurred at the Pasadena Plastics Complex. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant are liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**FOURTH CLAIM FOR RELIEF**  
**(General- Risk Management)**  
**(40 C.F.R. § 68.15)**

55. Paragraphs 1 through 45 are incorporated herein by reference.

56. The defendant has continuously violated 40 C.F.R § 68.15 by failing to develop a management system to oversee the implementation of the risk management program elements required by 40 C.F.R. § 68.175.

57. As a result of the defendant's continuous failure to develop a management system to supervise implementation of the risk management program accidental releases of extremely hazardous substances have occurred at the Pasadena Plastics Complex. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant are liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**FIFTH CLAIM FOR RELIEF**  
**(Program 3 Prevention Program-Process Safety Information)**  
**(40 C.F.R. § 68.65)**

58. Paragraphs 1 through 45 are incorporated herein by reference.

59. The defendant has continuously violated 40 C.F.R § 68.65 by failing to complete a compilation of written process safety information before conducting any process hazard analysis to enable the management and employees involved in operating the process to identify and understand the hazards posed by those processes involving extremely hazardous substances.

60. As a result of the defendant's failure to compile the required safety information

before conducting hazard analyses, accidental releases of extremely hazardous substances have occurred at the Pasadena Plastics Complex. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**SIXTH CLAIM FOR RELIEF**  
**(Program 3 Prevention Program-Process Hazard Analysis)**  
**(40 C.F.R. § 68.67)**

61. Paragraphs 1 through 45 are incorporated herein by reference.

62. The defendant has continuously violated 40 C.F.R. § 68.67 by failing to perform an initial process hazard analysis that identified, evaluated, and controlled the hazards involved. The process hazard analyses failed to address: (1) the identification of all previous incidents that had a likely potential for catastrophic consequences, such as a July 1998 incident involving dry butadiene filter; and (2) engineering and administrative controls applicable to the hazards, such as the adequacy of safeguards provided for the spare reactor in the K-Resin Unit during the operation of a mini-batch.

63. As a result of the defendant's continuous failure to perform the required process hazard analyses, accidental releases of extremely hazardous substances have occurred at the Pasadena Plastics Complex. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**SEVENTH CLAIM FOR RELIEF**  
**(Program 3 Prevention Program-Operating Procedures)**  
**(40 C.F.R. § 68.69)**

64. Paragraphs 1 through 45 are incorporated herein by reference.

65. The defendant has continuously violated 40 C.F.R § 68.69 by failing to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process, including clear instructions for (a) clearing the 1,3 butadiene feed line to the spare reactor involved in the June 1999 accidental chemical release; (b) the purging of the butadiene tank involved in the March 2000 accidental chemical release.

66. As a result of the defendant's continuous failure to develop and implement the required clear operating procedures, accidental releases of extremely hazardous substances have occurred at the Pasadena Plastics Complex. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**EIGHTH CLAIM FOR RELIEF**  
**(Program 3 Prevention Program-Training)**  
**(40 C.F.R. § 68.71)**

67. Paragraphs 1 through 45 are incorporated herein by reference.

68. The defendant has continuously violated 40 C.F.R § 68.71 by failing to train each employee involved in operating a process in an overview of the process and in the operating procedures emphasizing the specific safety and health hazards applicable to the employee's job

tasks.

69. As a result of the defendant's continuous failure to provide the required training, accidental releases of extremely hazardous substances have occurred at the Pasadena Plastics Complex. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**NINTH CLAIM FOR RELIEF**  
**(Program 3 Prevention Program-Mechanical Integrity)**  
**(40 C.F.R. § 68.73)**

70. Paragraphs 1 through 45 are incorporated herein by reference.

71. The defendant has continuously violated 40 C.F.R. § 68.73 by failing to correct deficiencies in equipment that are outside required acceptable limits before further use or in a safe and timely manner, including the continued utilization of a critical cooling line containing pentane in a spare reactor related to the June 1999 accident; and the failure to reduce deficiencies in the dry butadiene system related to the March 2000 accident.

72. As a result of the defendant's continuous failure to correct deficiencies in equipment, accidental releases of extremely hazardous substances have occurred at the Pasadena Plastics Complex. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**TENTH CLAIM FOR RELIEF**  
**(Program 3 Prevention Program-Management of Change)**  
**(40 C.F.R. § 68.75)**

73. Paragraphs 1 through 45 are incorporated herein by reference.

74. The defendant has continuously violated 40 C.F.R § 68.75 by failing to establish and implement written procedures to manage changes to process chemical, technology, equipment, and procedures; and changes to stationary sources that affect a covered process, including changes to operating procedures that were recommended after a 1998 filter incident.

75. As a result of the defendant' continuous failure to establish and implement the required procedures to manage change, accidental releases of extremely hazardous substances have occurred at the Pasadena Plastics Complex. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**ELEVENTH CLAIM FOR RELIEF**  
**(Program 3 Prevention Program-Employee Participation)**  
**(40 C.F.R. § 68.83)**

76. Paragraphs 1 through 45 are incorporated herein by reference.

77. The defendant has continuously violated 40 C.F.R § 68.83 by failing to consult with employees and their representatives on the conduct and development of process hazards analyses and other elements of process safety management, including failing to alert employees as to chemical spills and address the safety concerns of employees.

78. As a result of the defendant' continuous failure to consult with employees and



their representatives as required by regulation, accidental releases of extremely hazardous substances have occurred at the Pasadena Plastics Complex. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**TWELFTH CLAIM FOR RELIEF  
(Emergency Response Program)  
(40 C.F.R. § 68.95)**

79 . Paragraphs 1 through 45 are incorporated herein by reference.

80 . The defendant has continuously violated 40 C.F.R § 68.95 by failing to develop and implement an emergency response program for the purpose of protecting public health and the environment, including failing to implement its own emergency response procedures after the March 2000 accidental chemical release.

81 . As a result of the defendant's continuous failure to develop and implement the required emergency response program, the defendant has continuously failed to minimize the consequences of accidental releases of extremely hazardous substances at the Pasadena Plastics Complex. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**THIRTEENTH CLAIM FOR RELIEF**  
**(Risk Management Plan-Registration)**  
**(40 C.F.R. § 68.160)**

82 . Paragraphs 1 through 45 are incorporated herein by reference.

83 . The defendant has continuously violated 40 C.F.R § 68.160 by failing to complete a registration form as part its Risk Management Plan (“RMP”) that included chlorine, a regulated extremely hazardous substance held above the maximum quantity.

84 . Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**FOURTEENTH CLAIM FOR RELIEF**  
**(NSPS-Failure to Correctly Seal Values)**  
**(40 C.F.R. § 60.482-6)**

85 . Paragraphs 1 through 45 are incorporated herein by reference.

86 . The defendant has continuously violated 40 C.F.R. § 60.482-6 by failing to correctly seal all valves and other components to prevent leaks of volatile organic compounds (“VOCs”) from the loading/unloading rack, the polyethylene units, neohexene unit, and other locations at the Pasadena Plastics Complex.

87 . Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**FIFTEENTH CLAIM FOR RELIEF**  
**(NSPS-Failure to Identify, Tag and Log Equipment)**  
**(40 C.F.R. § 60.486(E))**

88 . Paragraphs 1 through 45 are incorporated herein by reference.

89 . The defendant has continuously violated 40 C.F.R. § 60.486(E) by failing to identify, tag, and record in a log that is kept in a readily accessible location numerous components of equipment in VOC service in the polyethylene unit, neohexene unit, and other locations at the Pasadena Plastics Complex.

90 . Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**SIXTEENTH CLAIM FOR RELIEF**  
**(NSPS-Failure to Maintain Records of Inspections)**  
**(40 C.F.R. §§ 60.7, 60.482-2(a)(2))**

91 . Paragraphs 1 through 45 are incorporated herein by reference.

92 . The defendant has continuously violated 40 C.F.R §§ 60.7(f) and 60.482-2(a)(2) by failing to maintain the required records showing that weekly visual inspections of pumps in VOC service were performed to prevent liquids dripping from the pump seal at the Pasadena Plastics Complex.

93 . Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), as amended, the defendant is liable for injunctive relief and assessment of a civil penalty of up to \$27,500 per day for each such violation occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, the United States, respectfully prays that this Court provide the following relief:

1. Temporarily and permanently enjoin the defendant from operating the Pasadena Plastics Complex, except in accordance with the Clean Air Act and the regulations implementing;
2. A judgment assessing civil penalties against the defendant;
3. A judgment awarding the United States its costs of this action; and
4. Such further relief as this Court may deem just and proper.

Respectfully submitted,

**FOR THE UNITED STATES OF AMERICA**

Dated: 9.28.04

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**THOMAS L. SANSONETTI**  
Assistant Attorney General  
Environment and Natural Resources Division  
United States Department of Justice

Dated: \_\_\_\_\_

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Dated: \_\_\_\_\_

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